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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,260	09/30/2002	Bret Edward Cahill		4199

7590 11/02/2004

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EXAMINER

GARTENBERG, EHUD

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,260

Applicant(s)

CAHILL, BRET EDWARD

Examiner

Ehud Gartenberg

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 31-48 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Species Election Requirement

1. This application encompasses four species of the inventive subject matter, as for example, the species of Fig. 1, Fig. 2, Fig. 3, and Fig. 4 respectively. Pursuant to 35 USC §121, applicant is required for a complete response to (1) elect a single disclosed species, i.e., figure, and (2) list all claims readable on the elected species including and any claims subsequently added (MPEP 809.02 (a)).

2. Applicant is further advised that a mere argument alleging that a generic claim exists or is allowable will not satisfy a species election requirement. For a complete response, applicant must elect a single species and list the claims readable on that species as set forth above.

Specification

3. A complete substitute specification followed by the claims is required pursuant to 37 CFR 1.125(a) because it is impossible to figure out what the complete disclosure is. Applicant is suggested to study the US Patent Chamis 6,393,831 a copy of which he received from the USPTO in a previous communication, and to draft the substitute specification in a similar pattern of form and style. The claims in the substitute specification will be numbered 31-48, as per Applicant's communication filed 10/04/2004. The substitute specification will contain the appropriate drawings Figs. 1-4.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject

matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

4. The disclosure is objected to because of the following informalities: the newly filed claims 31-48 lack status identifiers, as per 37CFR 121. The rule can be found on the internet at the USPTO site <http://www.uspto.gov/web/offices/pac/mpep/mpep.htm>. Note that a statement "Claims 1-30 canceled" must come before claim 31, and that each claim must have a status identifier after its number, e.g., "31. (new) An internal combustion" etc.

Appropriate correction is required.

5. Applicant is urged to comply with each one of the above requirements in order to permit the prosecution to proceed at an expedited pace and avoid abandonment. The species election must be made in a letter accompanying the substitute specification with the appropriate drawing and the claims. **Note that the substitute specification should not contain any new matter.** It must simply be an ordered and complete presentation of the original application, conforming the form and style requirements as specified in

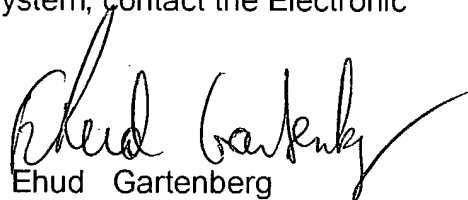
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the Manual of Patent Examination Procedure (MPEP) that can be found at the USPTO web site www.USPTO.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ehud Gartenberg whose telephone number is 703/308-2634. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 703/306-2772. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ehud Gartenberg
Primary Examiner
Art Unit 3746

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